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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JERRY R. SMITH,
Junior Party
(Application 09/031,432)¹

v.

OCTAVIO TABACCHI and THOMAS D. LISTON,
Senior Party
(Patent 5,878,613)²

Patent Interference No. 105,214

Before LEE, LANE and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

Judgment – Merits – Bd. R. 127

On April 21, 2005, a decision on priority was rendered. (Paper No. 40) Junior party Smith failed to establish priority relative to senior party Tabacchi. No other matter is now pending before the Board. Accordingly, it is

ORDERED that judgment as to the subject matter of the count is herein entered against junior party JERRY R. SMITH;

¹ Filed February 26, 1998. The real party in interest is Jerry R. Smith and Jon Kastendieck.

² Based on Application 08/966,431, filed November 7, 1997. The real party in interest is Secure Concepts, Ltd.

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FURTHER ORDERED that junior party JERRY R. SMITH is not entitled to its claims 1-32 which correspond to the count;

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

FURTHER ORDERED that a copy of this judgment be filed in the respective involved application or patent of the parties.

April 25, 2005

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By Facsimile:

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